



## **HUMAN SERVICES COMMITTEE**

**March 1, 2022**

**Testimony of Jean Mills Aranha, Connecticut Legal Services, Inc.**

### **In SUPPORT of S.B. 196, An Act Prohibiting Involuntary Discharges From Nursing Homes and Residential Care Homes to Temporary or Unstable Housing**

My name is Jean Mills Aranha and I am the Managing Attorney of the Stamford office of Connecticut Legal Services, Inc. (CLS), where I practice elder law. Connecticut's legal aid program are private non-profit law firms that provide free legal services to low-income residents of Connecticut, including residents of nursing homes and residential care homes (RCHs). I served on the Governor's Nursing Home and Assisted Living Oversight Working Group, which examined solutions to the crises that arose in these facilities during the Covid-19 pandemic.

Many people were shocked by the press coverage during the pandemic of the discharge of nursing home residents to homeless shelters, here in Connecticut and beyond. Unfortunately, such discharges have been a reality in Connecticut since long before the Covid-19 pandemic, both from nursing homes and RCHs. I attach a Fact Sheet from the legal services programs on this subject.

The Governor's Executive Order No. 7XX temporarily prohibited discharges to homeless shelters during the public health emergency, but the problem is ongoing and broader. Connecticut law should expressly prevent the involuntary discharge of residents of these facilities to homeless shelters or other temporary or unstable housing, as this bill provides.

Involuntary discharge from a skilled nursing facility or RCH to a homeless shelter or other transient or dangerous location is always inappropriate. Individuals coming from these facilities are all vulnerable, having only been admitted in the first place because they are elderly and/or disabled. Many of them have been living in the facility for long periods of time, with services in place to support them. Everyone in a nursing home has been living with staff available to help them around the clock, every day. An RCH resident is used to having room and board and at least one other personal service provided on a daily basis.

Even when a nursing home resident's health improves so that they may not need full time nursing home care, no resident should be involuntarily discharged to a homeless shelter, a motel for only a few days, or to an unsafe or other temporary arrangement. Such a discharge is unlikely to succeed, and the former resident is likely to face injury, illness, hospitalization or even death.

We have seen several cases just among our own clients. One client was discharged from a nursing home to live in a tent in the woods. Others have had discharges to homeless shelters proposed. But it is not just our clients who have been affected by these practices. A search of the Department of Social Services administrative hearings decisions for discharges to homeless shelters or other transient locations finds a number of such cases.

For example, one nursing home attempted to discharge a man who used an oversize wheelchair to a homeless shelter. This resident needed help with his activities of daily living, including bathing, transferring and toileting. He was learning to walk with a new prosthesis for his right leg.<sup>1</sup> Another decision describes an approved discharge to a homeless shelter for a woman who was still receiving physical therapy and who needed supervision or set-up for some of her activities of daily living.<sup>2</sup> A third tells of an approved discharge where the resident will be “offered a brief stay of three nights” at a local hotel.<sup>3</sup>

These decisions posted by DSS after hearing and decision by a hearing officer reflect only those cases where residents realized they could appeal their discharges and had the means and ability to do so. Like the relatively few residents who find their way to legal services, they represent only a fraction of the actual cases that exist.

The nursing home and residential care home industries must be more proactive in planning safe and appropriate discharges. If a resident is improving in health so that the resident will no longer need nursing home level of care, the home should be working early on to find and facilitate an appropriate discharge, rather than effectively discharging to the street at the last minute. Facilities should have adequate social work staff to work on these issues from the time of admission onward; legislation passed last session recognized the need for greater facility staffing and increased the required number of social workers in nursing homes.

Where a resident exhibits behaviors perceived as difficult, the nursing facility has an obligation to do person-centered care planning to address those behaviors. RCHs are required by law to assist the resident they are discharging to find appropriate placement. These facilities should not be able simply to dump a resident into a homeless shelter or other temporary or unstable housing. There are resources such as police, mobile crisis teams and Protective Services for the Elderly able to respond to true and unexpected emergencies. Otherwise, facilities should be doing appropriate planning for the future needs of their residents.

Connecticut can do better than allowing some of its most vulnerable residents to be discharged to unsafe and temporary housing or homeless shelters. Please support S.B. 196.

Thank you for considering my comments on this important legislation.

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<sup>1</sup> Accessed on 2/25/2022 at [https://portal.ct.gov/-/media/Departments-and-Agencies/DSS/Fair-Hearings/Other-Medicaid-Eligibility/Other-Medicaid-Eligibility-2016/OMEL\\_2016\\_764340.pdf](https://portal.ct.gov/-/media/Departments-and-Agencies/DSS/Fair-Hearings/Other-Medicaid-Eligibility/Other-Medicaid-Eligibility-2016/OMEL_2016_764340.pdf).

<sup>2</sup> Accessed on 2/25/2022 at [https://portal.ct.gov/-/media/Departments-and-Agencies/DSS/Fair-Hearings/Other-Medicaid-Eligibility/Other-Medicaid-Eligibility-2019/OMEL\\_2019\\_132203.pdf](https://portal.ct.gov/-/media/Departments-and-Agencies/DSS/Fair-Hearings/Other-Medicaid-Eligibility/Other-Medicaid-Eligibility-2019/OMEL_2019_132203.pdf).

<sup>3</sup> Accessed on 2/25/2022 at [https://portal.ct.gov/-/media/Departments-and-Agencies/DSS/Fair-Hearings/LTSS-Eligibility/LTSS-Eligibility-2019/LTSS\\_2019\\_144133.pdf](https://portal.ct.gov/-/media/Departments-and-Agencies/DSS/Fair-Hearings/LTSS-Eligibility/LTSS-Eligibility-2019/LTSS_2019_144133.pdf)

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# FACTS ABOUT SB 196

## Nursing Home and RCH Discharges to Temporary or Unstable Settings

We urge you to favorably vote SB 196 out of the HS Committee!

**Involuntary discharges should not be to temporary or unstable housing situations.**

Involuntary discharges of elderly and disabled individuals from nursing homes and residential care homes (RCHs) to inappropriate settings such as homeless shelters, is not an uncommon practice.

The pandemic and public health emergency highlighted the dangers of this action and the harm and hardship that it has caused individuals - both during the pandemic as well as in routine involuntary discharge situations.

**This is an ongoing, long-standing problem with severe consequences.**

**Involuntary discharges from nursing homes to inappropriate settings such as homeless shelters, short term motels and lodging or to family members who are unable or unwilling to care for an individual or have insufficient accommodations, *should not happen*.**

The nursing home discharge statute (CGS Section 19a-535 as well as 19a-535a covering discharges from residential care homes) should be amended to further define an appropriate setting for an involuntary discharge.

The Governor's EO 7XX (extended by EO 9L) prohibited nursing homes from involuntarily discharging residents to homeless shelters during the public health emergency. The expiration of the EO meant that this practice continued unchecked.

**We are especially concerned about residents who do not have a lawyer. In those cases, unrepresented residents may not appeal a discharge notice or adequately assert their rights.**

*A 65 year old Legal Services client who cannot walk and is incontinent, faced this situation. The nursing home had proposed discharging him to a homeless shelter. Legal Services attorneys were able to intervene and delay the discharge until more appropriate options were obtained. This client however, experienced significant stress and was understandably frightened that he would not get needed medical attention or have a stable home to live in.*

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